

REMARKS

Claims 1-45 and 48-56 are pending in the present application, claims 46-47 having been cancelled herein. The Office Action and cited references have been considered. Favorable reconsideration is respectfully requested.

Claims 11, 12 and 36 were rejected under 35 U.S.C. § 112, second paragraph. The claims have been amended to provide proper antecedent basis by changing the term “the capillary filling time” to “the blood vessel filling time.” Proper antecedent basis for “the blood vessel filling time” is provided in the claims. Withdrawal of this rejection is respectfully requested.

Claim 5 was rejected under 35 U.S.C. § 10 as being directed to non-statutory subject matter. Applicant has amended the claim in accordance with the Examiner’s suggestion. Withdrawal of this rejection is requested.

Claims 45, 48, and 49 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 34-36 of prior U.S. Patent No. 6,685,635. Claims 1-19, 21-24, 32-37, 46, and 47 were rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-4, 6-14, 16-28, and 30-34 of the ‘635 patent. Claim 45 has been amended to include the limitations of claims 36 and 47, thus overcoming the double patenting rejection under § 101. In addition, Applicant is submitting herewith a terminal disclaimer, disclaiming that portion of the term of the patent that issues from the present application that extends beyond the term of the ‘635 patent. This submission overcomes the obviousness-type double patenting rejection. Withdrawal thereof is respectfully requested.

In view of the above amendment and remarks, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections of record. Applicant submits that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

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